

*The following is intended to provide general information concerning frequently asked questions about taxes administered by the Mississippi Tax Commission. It is an informal interpretation of the tax law and is not intended to serve as a rule, regulation, declaratory opinion, or letter ruling. Legislation, regulations, court decisions, notices and announcements could affect the accuracy of this information. Please refer to the Mississippi Code Annotated and the Mississippi Administrative Code for the most current version of the law and administrative procedures.*

## **Tobacco, Beer, and Alcohol FAQs**

### **What is the minimum age to buy cigarettes in Mississippi?**

The minimum age to legally purchase cigarettes or other tobacco products is 18 years.

### **Is there a minimum age for a person selling cigarettes?**

There is not a law or regulation specifying an age limit for selling cigarettes or tobacco products.

### **How much is the cigarette tax in Mississippi?**

The tax rate is 18 cents per pack of 20, or 23 cents per pack of 25 cigarettes.

### **What is considered other tobacco products?**

Other tobacco products include cigars, smokeless tobacco, smoking tobacco, other forms of tobacco products, or products made with tobacco substitute containing nicotine.

### **How much is the tax on other tobacco products?**

Other tobacco products are taxed at a rate of 15% of the manufacturer's invoice price.

### **If I purchase cigarettes or other tobacco products from the Internet, are the taxes still due?**

Yes, you would be required to report your purchases to the Tax Commission and pay applicable cigarette or other tobacco product tax and state and local sales/use taxes. Untaxed tobacco is considered contraband and subject to seizure and other penalties.

### **Is sales tax applicable on Mississippi cigarettes and other tobacco products?**

Yes, sales tax is due on the price of the cigarettes that includes the excise tax. Sales tax is due on the retail price of other tobacco products.

### **Do I need a permit to sell tobacco products? If so, how do I get a permit?**

Yes, a permit is required to sell tobacco. You may apply for a permit through any of the Tax Commission's district offices.

### **What's the tax rate on alcohol products?**

Beer is subject to an excise tax of 42.68 cents per gallon; sparkling wine and champagne are \$1.00 per gallon; other wines are 35 cents per gallon; and distilled spirits are \$2.50 per gallon.

Additionally, all alcohol beverage products are subject to an additional 27 ½% markup on the wholesale purchase of alcohol beverages. Beer and alcohol beverages are subject to sales tax.

### **What's the difference between beer and alcohol beverages?**

Although beer contains alcohol, it is not considered an "alcohol beverage" in Mississippi's local option laws and is regulated differently from distilled spirits and wine.

In Mississippi, beer is a malt-based beverage that has no more than 5% alcohol by weight. Beer that has alcohol content greater than 5% by weight is not legal in Mississippi. Products that are wine-based and the alcohol content is less than 5% by weight are regulated like beer. These are called light wine products and are seen in the market typically as wine coolers. Beer and light wine cannot be sold in package stores. Likewise, alcohol beverages cannot be sold in convenience or grocery stores.

An alcohol beverage is either a distilled spirit or a wine product that contains more than 5% alcohol by weight. Products that are spirit-based (liquor) and that are less than 5% by weight are not legal in Mississippi. Alcohol beverages are most often identified as items you may purchase in package stores.

### **What is the legal drinking age in Mississippi?**

The legal drinking age for beer and/or alcohol is 21 years of age.

However, a person who is 18-21 years of age, in the presence of his parent or legal guardian, may consume beer with the consent of the parent or legal guardian. Please note that this exception is for beer only and specifically does not include hard liquor or wine products that contain more than 5% alcohol by weight.

Further, a person who is at least 18 years of age and who is serving in the U.S. military may possess and consume beer on military property where or when the consumption of beer is allowed.

### **Who may legally purchase alcoholic beverages in my permitted business?**

In order to purchase alcoholic beverages, a patron must be at least 21 years of age, not visibly intoxicated, and not a person to whom the sale of liquor has been prohibited by the Commission. A Chancery Court order removing one's minority will not allow that person to purchase or possess alcoholic beverages.

### **Can children be in a bar or package store with their parents?**

Yes. Persons under the age of 21 may be inside licensed premises; however, they cannot be allowed to drink or be sold alcohol beverages. Please note that the owner of the premises may prohibit minors from their premises at the owner's discretion.

### **As a permittee, how do I ensure that the person is old enough to purchase or consume beer and/or alcohol beverages?**

When any customer appears that he/she might be under 21, you or your employee should demand proof of age. When in doubt, you should refuse service.

ABC Enforcement recommends that you and your employees accept only state issued photo identification cards or US military identification cards. Mississippi issues two types of photo ID cards: driver's license and identification cards. ABC offers training to assist you in identifying fraudulent, false, or altered ID cards. Contact ABC Enforcement (601) 856-1320 for more information or to schedule a training session.

#### **How do I know if the ID card is valid?**

You should become familiar with Mississippi driver's licenses and IDs. Compare the questioned ID with a standard, like your own ID. You should be suspicious if it looks like the card was altered or tampered with, if it is discolored, or if any of the letters, logos, or photos are poorly applied or partially missing.

If you suspect the identification is fake, refuse to sell beer or alcohol beverages to the customer. ABC Enforcement offers a program entitled "Cops in Shops" to detect and prosecute underage persons attempting to purchase alcoholic beverages. If you wish to participate in this program, please contact ABC Enforcement at (601) 856-1320 for more information.

#### **Is it a serious violation to use or make a fake ID?**

Yes. Minors convicted of using false identification, which includes using another individual's driver's license or ID, altering their own identification, or reproducing a fake ID card can be fined up to \$500.00 and serve up to 30 days of community service. Further, a person over 21 years of age who is in the business of supplying fake driver's licenses to minors can be convicted of a felony and face up to \$5,000 in fines and 3 years in jail.

Loaning your license to a minor to purchase alcoholic beverages could have serious consequences, especially if the minor is involved in an accident. The loaner of the card could face civil and criminal charges.

#### **If you are under the age of 21 and are caught with beer or alcohol beverages, does it go on your record?**

Yes, if you are convicted the violation remains on your record. A minor in possession can be fined up to \$500.00, 30 days community service, and/or a 90 days suspension of his/her drivers license.

#### **Can underage persons work at licensed premises?**

For beer only licensed premises, anyone who is legally employed may sell or otherwise handle beer, regardless of age. The minor employee is prohibited from consuming, purchasing or otherwise personally coming into possession of beer.

For ABC or alcohol licensed premises, employment to persons under 21 is generally prohibited. However, someone at least 18 years of age may wait tables, take orders and deliver alcohol products to the table IF that is in the normal scope of his/her employment. This exception does not allow someone to serve as a bartender or manager of the premises.

At an ABC licensed premises, someone under 21 years of age may unload sealed cartons, boxes or similar shipping packages of alcohol products provided the package remains sealed at all times. Someone under 21 years of age may work as an entertainer at ABC licensed premises.

**May individuals bring beer or alcohol beverages into Mississippi from outside the state?**

No person (or business) may bring any liquor or wine product into Mississippi. Only beer wholesalers holding permits issued by the Mississippi Tax Commission may bring beer and/or light wine into the state. Any person or individual who violates this law will have the liquor, wine or beer confiscated and may be subject to monetary penalties and possible jail time.

**Can a private party be held in a business after hours in which liquor is served?**

A private party may be held on licensed premises after closing to the public; but, absolutely no alcoholic beverages may be served, sold, possessed or consumed on the premises except during the legal hours for operation regardless of whether the premises are open to the public or being used for a private party.

**Where do I get a permit to sell beer and alcohol beverages?**

There are separate permits for beer and alcohol beverages both issued through the Tax Commission. A beer permit may be applied for at one of the district offices. A beer permit allows a retailer to sell beer and light wine at his licensed premises. For beer and light wine, this permit can be for on-premises or off-premise sales. A municipality or county (depending on where the retailer is located) may issue a local beer permit. You should contact your local government authorities for information.

The permit to sell alcohol beverages is issued by the Alcohol Beverage Control office of the Tax Commission. The authority to issue permits to sell alcohol beverages is solely within the authority of the State Tax Commission; there is no provision in law for a municipality or county to issue a permit for the sale of alcohol beverages.

**What are the legal hours of sale for beer?**

Beer may be sold for off-premises consumption 24/7; however, the hours for sale for consumption off-premises may be restricted by local ordinance. Sales on Sunday may also be restricted by local ordinance.

State law establishes the hours for on-premises sales of beer from 7:00 a.m. to midnight, 7 days a week. Municipal or county governments may, by ordinance, further restrict but not extend those hours.

If the hours for selling alcohol beverages have been extended by the State Tax Commission, then the hours for beer sales is likewise extended to the same hours of sale as alcohol beverages for that community or resort area.

**What are the legal hours of sale for alcohol beverages?**

Package stores with ABC permits may only open for business from 10:00 a.m. to 10:00 p.m, Monday through Saturday. Package stores are not allowed Sunday sales and cannot open on Christmas Day.

ABC on-premises permittees may make sales of alcohol beverages at the permitted location between 10:00 a.m. and midnight, Monday through Saturday. Sales after midnight and Sunday sales by on-premises permittees may only occur if the hours for sale have been extended by the State Tax Commission.

ABC on-premises permittees in areas that have been granted resort status by the State Tax Commission are exempt from the above hours-of-operation restrictions. Package stores in resort areas are not exempt from the hours of operation above.

**My business is ABC-licensed. Must my employees also be licensed?**

Effective March 3, 1999 the ABC no longer requires employee identification cards for employees of package and on-premise retailers. Owners and managers of package and on-premise retailers are required to maintain identification cards.

Persons convicted of a felony within the past three years prior to employment or jailed within the past 12 months are not eligible for employment at a permitted establishment. Permittees will be subject to administrative fines and penalties for willful employment of these ineligible persons.

**Can alcohol beverages be sold on election day?**

Sales of alcohol beverages are not limited or restricted on election days. Local governments cannot restrict the sale of alcohol beverages by package stores or on-premises ABC permittees on election days. Beer sales on election days may be restricted by a local ordinance.

**What is the distance from a school or church where alcohol beverages can be sold?**

Alcohol beverages cannot be offered for sale within 400 feet of a school, church, kindergarten, children's day care or a funeral home. The minimum distance is measured from the nearest point to the nearest point of the permittee's establishment and the church, school building, etc.

However, if the area is zoned commercial or industrial, the minimum distance is 100 feet from the church, school etc. If the church, school, kindergarten, or funeral home is in an area that is zoned residential and the permittee is in an area zoned commercial, then the distance is 400 feet.

A church or funeral home can waive the distance requirements; however, a school, kindergarten or day care cannot waive the distance requirement. The waiver must be in writing from the owner, governing body or appropriate officer of the church or funeral home.

**What is the distance from a school or church where beer can be sold?**

A municipality or county may, by ordinance, define zones or territories where beer may be sold. You will need to check with your local authorities for that information.

**How many counties are dry in Mississippi?**

Currently, there are 34 (of 82 total) counties in Mississippi that are completely dry for hard liquor. In addition to this, there are 4 counties that are "half" dry because the county has two judicial districts and each district can have an independent election. There are several locations in the dry areas of the state that are legal for liquor and wine sales due to legislative action.

There are currently 36 counties in Mississippi that are dry for beer sales. Within these 36 counties, there are numerous municipalities that are wet for beer sales. Wet/Dry maps for alcohol and beer may be viewed on the Tax Commission website.

### **How does a dry county become a wet county for alcohol beverages?**

The law provides for local elections to determine whether or not alcohol beverages will be sold. For alcohol beverages, a county is dry until an election is made to come out from under prohibition. Upon receipt of a petition signed by at least 20% or 1,500, whichever is less, of the qualified electors of the county, the board of supervisors must call an election for or against the legal sale of alcohol beverages.

A county may also have an election to vote to discontinue the sale of alcohol beverages. Upon receipt of a petition signed by at least 20% or 1,500, whichever is less, of the qualified electors of the county, the board of supervisors must call an election as outlined above. An election for or against the sale of alcohol beverages may not be made in any county more than once every two years.

Unless provided specific authority by law, a municipality may not hold an independent election to come out from under prohibition.

### **How does a dry county or municipality become wet for beer?**

The law provides for local elections to determine whether or not to allow beer to be sold in the local communities. Beer law provides that a vote to allow beer sales within a county will be held upon receipt by the board of supervisors of a petition signed by 20% of the qualified electors of the county. Likewise an election can be set to discontinue the sale of beer within the county upon receipt by the board of supervisors of a petition signed by 20% of the qualified electors of the county. Neither election may be held in any one county more often than once every five years.

Any municipality with a population of at least 2,500 people may vote to allow or prohibit the sale of beer within that municipality. The election will be called upon receipt by the governing authority of the city of a petition signed by 20% of the qualified electors of the city. An election to allow or prohibit the sale of beer may not be made in any city more than once every five years.

### **Can I make homemade wine and beer?**

Mississippi law provides that a person may make homemade wine for domestic or household uses only. Homemade wine cannot be sold. Wine is defined as a product obtained from the alcoholic fermentation of the juice of sound, ripe grapes, fruits or berries and made in accordance with the revenue laws of the United States.

Mississippi law does not allow someone to make beer or other malt products; and the law does not allow someone to make intoxicating or spirituous liquors. Homemade wine does not include any alcohol product made by distillation which is distilled spirits or hard liquor.

**Can I order wine over the internet to be delivered to my home?**

No. It is illegal to bring wine into Mississippi and such products will be considered contraband.

**I thought the Supreme Court ruled that direct shipment of wine was legal?**

No, in the case heard by the U. S. Supreme Court, the Court ruled that a state cannot discriminate with regard to regulation of out-of-state wineries. In other words, if an in-state winery can ship and sell directly to a consumer, then an out-of-state winery has the same privilege. In Mississippi, in-state wineries cannot ship directly to a consumer so there are no discriminatory practices. The Court further ruled that the states have the ultimate authority to regulate wine and alcohol as they see fit.

**Where do I purchase my alcoholic beverage inventory?**

All of your alcoholic beverage products, except for native wines, may be purchased from the Alcoholic Beverage Control. You may also purchase these products from package retailers who are approved to sell to other permitted retailers. Please see your price book for a listing of these businesses or you may call (601) 856-1301 for more information.

**How long will it take to receive my Special Order?**

Delivery times vary greatly, dependent upon the winery or distributor owning the specific order. You should allow a few weeks for your order to arrive at your selected package retailer.

**Why is ABC out of stock of a certain product?**

There are many reasons that the ABC may not have a specific product. Please call ABC Purchasing at (601) 856-1340 with your questions.

**What should I do about missing or damaged product received from ABC?**

If the damage is "wet," contact the company that made the delivery. They have an established way of processing damage claims. For "dry concealed damage," ABC will provide credit for properly submitted claims (see the ABC Price List.) Contact the ABC Warehouse at (601) 856-1380 for claim forms or assistance